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## PART II—Section 2

### Bills and Reports of Select Committees on Bills

#### HOUSE OF THE PEOPLE

The following Bill was introduced in the House of the People on 17th December, 1952:—

BILL\* No. 130 OF 1952

*A Bill to provide for the control by the Union of the tea industry, and for that purpose to establish a Tea Board and levy a customs duty on tea exported from India.*

BE it enacted by Parliament as follows:—

#### CHAPTER I

##### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Tea Act, 1952.

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the control of the export of tea from, and the cultivation of tea in, India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Declaration as to expediency of control by the Union.**—It is hereby declared that it is expedient in the public interest that the Union should take under its control the tea industry.

**3. Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Board" means the Tea Board constituted under section 4;

(b) "broker" means a broker of tea;

(c) "cess" means the customs-duty imposed by section 26;

(d) "Customs-collector" means a Customs-collector as defined in clause (c) of section 3 of the Sea Customs Act, 1878 (VIII of 1876)

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\*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to the House of the People the introduction and consideration of the Bill.

for the purposes of that Act, or of that Act as applied to the import and export of goods by air, or a Collector of Land Customs as defined in clause (c) of section 2 of the Land Customs Act, 1924 (XIX of 1924), as the case may be;

(e) "dealer" means a dealer in tea;

(f) "export" means to take out of India by land, sea or air to any place outside India other than a country or territory notified in this behalf by the Central Government by notification in the Official Gazette;

(g) "export allotment" means the total quantity of tea which may be exported during any one financial year;

(h) "Fund" means the Tea Improvement Fund referred to in section 28;

(i) "grower" means a grower of tea;

(j) "manufacturer" means a manufacturer of tea;

(k) "member" means a member of the Board;

(l) "owner"—

(i) with reference to a tea estate or garden or a sub-division thereof the possession of which has been transferred by lease, mortgage or otherwise, means the transferee so long as his right to possession subsists; and

(ii) with reference to a tea estate or a garden or a sub-division for which an agent is employed, means the agent if, and in so far as, he has been duly authorised by the owner in that behalf;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "standard export figure" means such quantity as the Central Government may, by notification in the Official Gazette, specify pursuant to any international agreement in this behalf;

(o) "tea" means the plant *Theasinensis* as well as the commodity known as tea made from the leaves of the plant *Theasinensis* including green tea but excluding tea waste;

(p) "tea seed" includes seeds, roots, stumps, cuttings, buds and any living portion of the plant *Theasinensis* which may be used to propagate that plant.

## CHAPTER II

### THE TEA BOARD

**4. Establishment and constitution of the Tea Board.**—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Act a Board to be called the Tea Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of a Chairman and such number of other members not exceeding forty as the Central Government may think

expedient, to be appointed by that Government by notification in the Official Gazette from among persons who are in its opinion capable of representing,—

- (a) owners of tea estates and gardens and growers;
- (b) persons employed in tea estates and gardens;
- (c) manufacturers of tea;
- (d) dealers including both exporters and internal traders of tea;
- (e) consumers;
- (f) Parliament;
- (g) the Central Government;
- (h) the Governments of the principal tea growing States;
- (i) Chambers of Commerce and Industry;
- (j) such other persons or class of persons, as scientists, economists or business men, who, in the opinion of the Central Government, ought to be represented on the Board.

(4) The term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among, the members of the Board shall be such as may be prescribed.

**5. Vacancies, etc., not to invalidate acts and proceedings.**—No act done or proceeding taken by the Board under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

**6. Salary and allowances of Chairman.**—The Chairman shall be entitled to such salary and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may from time to time be fixed by the Central Government.

**7. Vice-Chairman.**—The Central Government shall appoint from among the members of the Board a Vice-Chairman, who shall exercise such of the powers and discharge such of the duties of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

**8. Executive and other Committees.**—(1) There shall be an Executive Committee of the Board constituted in the manner prescribed.

(2) The Executive Committee shall exercise such of the powers and perform such of the duties of the Board as may be prescribed, or as the Board may delegate to it.

(3) Subject to such control and restrictions as may be prescribed the Board may constitute other Standing Committees or *ad hoc* Committees for exercising any power or discharging any duty of the Board or for enquiring into or reporting and advising on any matter which the Board may refer to them.

(4) A Standing Committee shall consist exclusively of members of the Board.

(5) An *ad hoc* Committee may include persons who are not members of the Board, but their number shall not exceed one half of its strength.

**9. Secretary and staff.**—(1) The Central Government shall appoint—

- (a) a Secretary to the Board who shall exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Board or the Chairman;

(b) all other officers of the Board drawing a salary of rupees one thousand or more per month.

(2) Subject to such control and restrictions as may be prescribed, the Board may appoint such other officers and employees as may be necessary for the efficient performance of its functions and pay them such salaries and allowances as it may determine from time to time.

(3) The Chairman, Secretary and other employees of the Board shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.

**10. Functions of the Board.**—(1) It shall be the duty of the Board to promote by such measures as it thinks fit the all round development under the control of the Central Government of the tea industry.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for—

(a) promoting the sale and increasing the consumption in India and elsewhere of Indian tea and carrying on propaganda for that purpose;

(b) increasing the production of tea in India;

(c) undertaking, assisting or encouraging scientific, technological and economic research, and maintaining and assisting in the maintenance of research institutes and experimental and demonstration farms and manufacturing stations;

(d) collecting statistics from growers, manufacturers, dealers and such other persons as may be prescribed on any matter relating to the tea industry; the publication of statistics so collected or portions thereof or extracts therefrom;

(e) fixing grade standards of tea and providing for training in tea tasting;

(f) improving the marketing of tea in India and elsewhere and preventing unfair competition;

(g) regulating and controlling the sale of tea for internal consumption or export, whether by auction or otherwise;

(h) assisting in the control of insects and other pests and diseases affecting tea;

(i) promoting co-operative efforts among growers and manufacturers of tea;

(j) ensuring remunerative returns to the growers and manufacturers of tea;

(k) regulating the acreage under tea production;

(l) registering and licensing of manufacturers, brokers and tea waste dealers; regulating sales and auctions;

(m) controlling the quality of tea and licensing of blending;

(n) promoting the adoption of measures for increasing the productivity of labour, including measures for securing safer and better

working conditions and the provision and improvement of amenities and incentives for workers;

(c) such other matters as may be prescribed.

(3) The Board shall perform its functions under this section in accordance with, and subject to, such rules as may be made by the Central Government, including rules for the allocation of moneys to different objects.

**11. Dissolution of the Board.**—(1) The Central Government may, by notification in the Official Gazette, declare the Board to be dissolved, and on the date of the publication of any such notification the Board shall stand dissolved and this Act shall be deemed to be repealed.

(2) When the Board is dissolved the unexpended balance of all money received by the Board under this Act shall lapse to the Central Government.

### CHAPTER III

#### CONTROL OVER THE EXTENSION OF TEA CULTIVATION

**12. Method of control of extension of tea cultivation.**—(1) No one shall plant tea on any land not planted with tea on the date of commencement of this Act unless permission has been granted to him in writing by or on behalf of the Board.

(2) No tea area shall be replaced by planting tea on area not planted with tea unless permission has been granted in writing by or on behalf of the Board.

(3) Nothing in this section shall prohibit the infilling or supplying of vacancies on land planted with tea on the date of commencement of this Act or the replanting of tea upon—

(i) land planted with tea on the 31st day of March, 1950 from which original bushes have been uprooted, or

(ii) land planted with tea on the 31st day of March, 1948, from which the original bushes have been uprooted.

**13. Limitations to the extension of tea cultivation.**—(1) Subject to the provisions contained in sections 15 and 16, the total area of land in respect of which the permission referred to in section 12 may be granted, shall not exceed such area as may be determined by the Board with the previous approval of the Central Government.

(2) The total area of land in any State in respect of which such permission may be granted shall be such as may be determined by the Board:

Provided that the Board may vary the total area so determined for any State in order to increase or diminish for another State the area in respect of which such permission may be granted by an amount corresponding to the extent to which the area in the first mentioned State has been diminished or increased.

(3) The Board shall publish the total area determined for India as well as the total areas determined for the various States by notification in the Official Gazette of the Central Government as soon as may be after the commencement of this Act and shall in like manner publish any subsequent variation of such total areas.

**14. Grant of permission to plant tea.**—(1) Applications for permission to plant tea on any land not planted with tea on the date of commencement of this Act shall be made to the Board and shall contain a clear statement of all special circumstances justifying the application.

(2) The Board may require an applicant to supply such information as it thinks necessary to enable the Board to deal with the application.

(3) Subject to such conditions and restrictions as may be prescribed, the Board may by order grant or refuse the permission applied for, or may in like manner grant it in part only or may call for further information from the applicant:

Provided that permission shall not be granted in the case of a tea estate owned by a limited liability company if the area planted with tea in the estate exceeds three hundred acres, and in the case of any tea estate owned by an individual proprietor or proprietors if the area planted with tea in the estate exceeds one hundred and fifty acres.

(4) No order by the Board under sub-section (3) shall be called in question by any court.

**15. Grant of permission to plant tea in special circumstances.**—(1) Where any land which was on the 31st day of March, 1933, planted with tea (including land planted with tea on the 31st day of March, 1931 from which the original bushes had been uprooted and which had not been replanted with tea on the said 31st day of March, 1933), or where any land planted with tea after the 31st day of March, 1933—

(a) has since become wholly incapable of carrying tea through circumstances due to war, or through subsidence, flood, erosion, earthquake or other irresistible superhuman cause, or

(b) has since been compulsorily acquired under the provisions of the Land Acquisition Act, 1894 (I of 1894), or of any other law for the time being in force and no longer carries tea, or

(c) has since been transferred to the Central or a State Government or to a local authority and no longer carries tea, or

(d) has since been resumed by the lessor under the terms of any lease and no longer carries tea,

the owner of the tea estate in which such land is situated may apply to the Board for permission to plant tea on land not planted with tea.

*Explanation.*—Land taken for purposes connected with the prosecution of war on which tea bushes have been allowed to remain for protective purposes though no longer cultivated shall be deemed for the purposes of this section to be incapable of carrying or no longer to carry tea.

(2) Upon such application being made and upon proof to the satisfaction of the Board that the applicant is entitled to the benefit of sub-section (1) the Board may by order grant permission to plant tea on land not planted with tea:

Provided that the area of land in respect of which such permission is granted shall be within the same or an adjacent district and shall belong to the same or an adjacent tea estate and shall not exceed in extent the area of the land incapable of carrying tea or compulsorily acquired, transferred or resumed, as the case may be.

(3) All areas of land in respect of which permission to plant tea is granted under this section shall be excluded when computing for the purpose of section 13 the total area of land in respect of which the permission referred to in section 12 may be granted.

(4) If any land falling within the *Explanation* to sub-section (1) is subsequently restored to the tea estate from which it was subtracted, the owner of the estate shall either uproot the tea planted thereon, or uproot any tea planted by him in pursuance of a permission granted under sub-section (2).

**16. Tea nurseries.**—(1) The owner of a tea estate may establish nurseries on land not previously planted with tea for the growing of plants intended for infilling or supplying vacancies or for replanting land planted with tea within the area of the estate or for any other purpose approved by the Board.

(2) All areas of land utilised for nurseries in accordance with this section shall be excluded when computing for the purpose of section 13 the total area of land in respect of which the permissions referred to in section 12 may be granted.

**17. Appeal to Central Government.**—Any applicant aggrieved by an order of the Board under section 14 or section 15 may appeal to the Central Government within sixty days from the date thereof and the Central Government may cancel, modify or suspend any such order.

#### CHAPTER IV

##### CONTROL OVER THE EXPORT OF TEA AND TEA SEED

**18. Control of export of tea and tea seed.**—(1) No tea shall be exported unless covered by a licence issued by or on behalf of the Board.

(2) No tea seed shall be exported unless covered by a permit issued by or on behalf of the Central Government.

(3) No tea or tea seed shall be taken by land, sea or air out of any State to any of the French or Portuguese Settlements bounded by India, unless covered by a permit issued by or on behalf of the Board.

**19. Tea for export to be covered by licence or permit.**—(1) No consignment of tea or tea seed shall be shipped or waterborne to be shipped for export or shall be exported until the owner has delivered to the Customs-collector a valid export licence or special export licence or a valid permit issued by or on behalf of the Board or the Central Government, as the case may be, covering the quantity to be shipped.

(2) No consignment of tea or tea seed shall be shipped or waterborne to be shipped for carriage (or shall be taken by land or air) to any of the French or Portuguese Settlements bounded by India until the owner has delivered to the Customs-collector a permit issued by or on behalf of the Board covering the quantity to be shipped.

(3) No permit for the passage of any tea or tea seed by land into any of the French or Portuguese Settlements bounded by India shall be granted under sub-section (1) of section 5 of the Land Customs Act, 1924 (XIX of 1924), unless the application for such permit is accompanied by a permit granted in this behalf by the Board covering the quantity to be passed.

**20. Export allotment.**—The Central Government shall, after consulting the Board and paying due regard to all interests concerned and to the standard export figure, declare, by notification in the Official Gazette, the export allotment for each financial year:

Provided that the Central Government may by subsequent notification at any time during the financial year alter the export allotment and thereupon the export allotment as so altered shall be the export allotment for that year.

**21. Export quotas and licences.**—(1) Subject to such conditions as may be prescribed, any tea estate shall have the right to receive under this Act an export quota for each financial year.

(2) The export quota of a tea estate, that is, the total quantity of tea which may be exported by the owner of a tea estate during the financial year, shall be an amount determined by the Board in accordance with such principles as may be prescribed:

Provided that when an export allotment is altered under the provisions of section 20, the export quota shall be liable to be altered accordingly.

(3) The total of export quotas allotted to tea estates at any time during any financial year shall not exceed the export allotment for the time being for that year.

**22. Right to export licences.**—(1) The owner of a tea estate to which an export quota has been allotted for any financial year shall have the right to obtain at any time export licences during that year to cover the export of tea upto the amount of the unexhausted balance of the quota, that is, upto the amount of the quota less the amount for which the export licences have already been issued against it.

(2) The right of the owner of a tea estate under this section may be transferred subject to such conditions as may be prescribed, and the transferee of any such right may again transfer the whole or any part of his right to the owner of a tea estate, but not to any other person:

Provided that nothing in this sub-section shall operate to restrict the issue of licences for the export of tea expressed to be sold with export rights.

(3) The owner of any tea estate to which an export quota has been allotted or any person to whom he has transferred his rights may at any time before the 21st day of March of the financial year to which the quota relates apply in writing to the Board for an export licence to cover the export of tea upto the amount of the unexhausted balance of the quota.

(4) Every licence shall be in duplicate in the prescribed form, shall bear the date of its issue and shall be valid upto the end of the financial year in which it is issued:

Provided that, save as provided in section 23, the Board shall not issue any export licence after the end of the financial year in which the application for licence was made.

**23. Special export licences.**—(1) Where tea in respect of which an export licence has been or could have been granted under this Act has not been exported before the end of the financial year in which the licence



was or could have been issued, the person to whom the licence was or could have been granted may, before the 14th day of April of the following financial year forward an application to the Board for a special export licence covering the same quantity of tea, and the Board shall, on receipt of the prescribed fee, if any, issue a special licence accordingly.

(2) A person to whom a special export licence has been issued under sub-section (1) may transfer the special export licence with all the rights conferred thereby to a person or persons nominated by him, but a licence once so transferred shall not be further transferable.

(3) A special export licence shall be in duplicate in the prescribed form, shall bear the date of its issue and shall be valid upto the 31st day of May of the financial year in which it was issued.

(4) The quantity of tea covered by a special export licence shall be accounted for against the export quota of the year in which the original licence was or could have been issued under this Act.

(5) Notwithstanding anything contained in the foregoing sub-sections the Board may, with the general or special previous sanction of the Central Government refuse to issue a special export licence or postpone for so long as the Central Government may require the issue of any special export licence.

**24. Board to maintain accounts of quotas.**—(1) The Board shall maintain an account of every export quota showing, in addition to such other particulars as the Board may think fit, the licences issued against it and the unexhausted balance.

(2) Any owner of a tea estate shall be entitled, on payment of the requisite fee, to a copy of the account relating to his quota, certified in the manner laid down in the by-laws made by the Board.

**25. Limitation of application of Chapter.**—Nothing in this Chapter shall apply to tea—

(a) proved to the satisfaction of the Customs-collector to have been imported into India from any port outside India; or

(b) shipped as stores on board any vessel or aircraft in such quantity as the Customs-collector considers reasonable having regard to the number of the crew and passengers and length of the voyage on which the vessel or aircraft is about to depart; or

(c) exported by post in packages not exceeding one pound *avoirdupois* in weight; or

(d) exported with the previous sanction of the Central Government, within the limits prescribed in this behalf, by a Red Cross Society or by any organisation for providing amenities for troops overseas; or

(e) taken as part of the personal luggage of a passenger.

## CHAPTER V

### FINANCE, ACCOUNTS AND AUDIT

**26. Imposition of a duty of customs on export of tea.**—(1) A duty of customs shall be levied and collected on all tea exported or taken outside India at such rate not exceeding two rupees per one hundred pounds as the Central Government may notify in the Official Gazette.

(2) The duties of customs levied under sub-section (1) shall be collected by such agencies and in such manner as may be prescribed.

**27. Payment of duties of customs to the Board.**—The Central Government may, in each financial year, pay to the Board a sum not exceeding the proceeds of the duties of customs collected during the preceding financial year after deducting the expenses of collection.

**28. Constitution of Fund.**—(1) There shall be formed a Fund to be called the Tea Improvement Fund, and there shall be credited thereto—

(a) the proceeds of the duties of customs made over to the Board by the Central Government;

(b) all fees levied and collected in respect of licences, permits and permissions issued under this Act; and

(c) any other fee that may be levied and collected under this Act or the rules made thereunder.

(2) The Fund shall be applied towards meeting the expenses of the Board and the cost of the measures referred to in section 10.

**29. Borrowing powers of Board.**—Subject to such rules as may be made in this behalf, the Board shall have power to borrow on the security of the Fund or any other asset for any purposes for which the Fund may be applied.

**30. Accounts and audit.**—(1) The Board shall cause accounts to be kept of all moneys received and expended by it.

(2) The accounts shall be audited every year by auditors appointed in this behalf by the Central Government and such auditors shall disallow every item, which in their opinion is not authorised by the Act or any rule made or direction issued thereunder.

(3) The Board may, within three months from the date of communication to it of the disallowance of any item, as aforesaid, appeal against such disallowance to the Central Government whose decision shall be final.

## CHAPTER VI

### CONTROL BY THE CENTRAL GOVERNMENT

**31. Fixation of prices for sale of tea.**—(1) The Central Government may, by notification in the Official Gazette, fix the price or prices at which tea may be sold wholesale or retail by auction or otherwise whether for the Indian market or for export.

(2) No grower or dealer shall sell tea wholesale or retail by auction or otherwise, whether for the Indian market or for export at a price or prices higher than the price or prices fixed under this section.

**32. General control over acts and proceedings of the Board.**—(1) All acts and proceedings of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.

(2) The Board shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

(3) The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.

## CHAPTER VII

## MISCELLANEOUS

**33. Licensing of brokers, tea manufacturers, etc.**—The Central Government may whenever it thinks it necessary so to do, by notification in the Official Gazette require that no person shall on and from such date as may be specified in the notification engage himself as a broker, manufacturer, or dealer in tea waste or engage himself in the business of blending tea except under and in accordance with the provisions of a licence issued by the Board in accordance with the rules made under this Act and any person who on and after such date so engages himself without obtaining a licence issued by the Board shall be deemed to have contravened the provisions of this section.

**34. Power of inspection.**—Any person authorised in this behalf by the Central Government or by the Board or any member or officer of the Board may enter at all reasonable times any tea estate or any place or premises where tea is stored, kept or exposed for sale and may require the production for his inspection of any book, register, record or other paper kept therein and ask for any information relating to the production, storage or keeping for sale of tea.

**35. Power of Board to call for returns.**—The Board may serve by post a notice upon the owner of any tea estate or upon his manager, requiring him to furnish, within such period as it may specify in the notice, such returns relating to the production, sale and export of tea produced on the estate or to any other matter as it may deem necessary.

**36. Penalty for illicit export.**—A breach of the provisions of sub-section (1) or sub-section (2) of section 19 shall be punishable as if it were an offence under item No. 8 of section 167 of the Sea Customs Act, 1878 (VIII of 1878), and the provisions of section 168 and of Chapter XVII of that Act shall apply accordingly.

**37. Penalty for making false return.**—Any person who being required by or under this Act to furnish any return fails to furnish such return or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to one thousand rupees.

**38. Penalty for obstructing an officer or member of the Board in the discharge of his duties and for failure to produce books and records.**—Any person who—

(a) obstructs a member or officer of the Board in the exercise of any power conferred, or in the discharge of any duty imposed, on him by or under this Act, or

(b) having the control or custody of any account book or other record, fails to produce such book or record when required to do so by or under this Act,

shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**39. Penalty for illicit cultivation.**—Whoever knowingly plants tea or causes tea to be planted on any land in contravention of section 12 shall be punishable with fine which may extend to one thousand rupees for the first offence, and with fine which may extend to five thousand rupees for any subsequent offence.

**40. Removal of tea planted without permission.**—Where any person has been convicted of any offence under section 39, the convicting court may direct that the tea in respect of which the offence was committed shall be removed from the land within a specified time, and in the event of the order not being duly complied with, may cause the tea to be removed and may recover the cost from the person convicted as if it were an arrear of land revenue due on the tea estate on which the offence was committed.

**41. Other penalties.**—Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder other than the provisions, punishment for the contravention whereof has been provided for in sections 36, 37, 38 and 39, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

**42. Offences by companies.**—(1) If the person committing an offence under this section or the rules thereunder is a company, every person, who at the time the contravention was committed was incharge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

**43. Jurisdiction of courts.**—No court inferior to that of a Presidency magistrate or a magistrate of the First Class shall try any offence punishable under this Act.

**44. Previous sanction of Central Government for prosecution.**—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

**45. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

**46. Power to delegate.**—The Central Government may, by order notified in the Official Gazette, direct that any power exercisable by it under this Act may also be exercised in such cases and subject to such conditions, if any, as may be specified in the order by such officer or authority as may be specified therein.

**47. Suspension of operation of Act.**—(1) If the Central Government is satisfied that circumstances have arisen rendering it necessary that certain of the restrictions imposed by this Act should cease to be imposed or if it considers it necessary or expedient so to do in the public interest, the Central Government may, by notification in the Official Gazette, suspend or relax to a specified extent either indefinitely or for such period as may be specified in the notification the operation of all or any of the provisions of this Act.

(2) Where the operation of any provisions of this Act has under subsection (1) been suspended or relaxed indefinitely, such suspension or relaxation may at any time while this Act remains in force be removed by the Central Government by notification in the Official Gazette.

**48. Power of Central Government to make rules.**—(1) The Central Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the constitution of the Board, the term of office and other conditions of service of, the procedure to be followed by, and the manner of filling casual vacancies among, the members of the Board;

(b) the circumstances in which, and the authority by which members may be removed;

(c) the holding of a minimum number of meetings of the Board every year;

(d) the pay, allowances and other conditions of service of the Secretary and other officers appointed by the Central Government;

(e) the maintenance of records of all business transacted at meetings of the Board and the submission of copies of such records to the Central Government;

(f) the conditions subject to which, and the mode in which, contracts may be made by or on behalf of the Board;

(g) the preparation of budget estimate of the receipts and expenditure of the Board and the authority by which such estimates shall be sanctioned;

(h) the powers of the Board and the Executive Committee and the Chairman, in regard to the incurring of expenditure; and the re-appropriation of estimated savings in any budget head to another such head;

(i) the conditions subject to which the Board may incur expenditure;

(j) the conditions subject to which the Board may borrow;

(k) the form and the manner in which accounts should be kept by the Board;

(l) the basis on which the export quota of a tea estate shall be determined;

(m) the conditions subject to which export quota, export licences and special export licences shall be transferable ;

(n) the conditions subject to which permits for the planting of tea on land not carrying tea shall be granted;

(o) the collection of any information or statistics in respect of the tea industry and the tea trade;

(p) the fees to be levied in respect of licences, permits and permissions issued under this Act;

(q) the procedure for the grant or issue of licences, permits and permissions under this Act, the time within which such licences, permits or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such public inquiry in regard thereto as may be necessary in the circumstances;

(r) the form of application for licences, permits or permissions under this Act;

(s) the manner in which a broker or a dealer in tea waste or a manufacturer shall be licensed under this Act and the levy of fees in respect of such licence;

(t) the matters which may be taken into account in the granting or issuing of any licence, permit or permission under this Act including in particular the previous consultation with the Central Government by the Board in regard to the grant or issue of any such licences, permits or permissions,

(u) the conditions which may be included in any licences, permits or permissions;

(v) the returns to be furnished by owners of tea estates, manufacturers, dealers and brokers relating to the production, manufacture, storage, sale and export of tea and the form and manner in which such returns are to be furnished;

(w) the fees to be charged for granting certified copies of accounts of quotas;

(x) any other fee that may be necessary for the Board to levy in order to determine or redetermine the basis on which export quota may be fixed;

(y) any other matter which is to be or may be prescribed.

**49. Power of Board to make by-laws.**—(1) The Board may make by-laws consistent with this Act and the rules made thereunder, to provide for—

(a) the dates, times and places of its meetings and of the meetings of the Executive and other Committees and quorum for such meetings, and the procedure thereat;

(b) the delegation of powers and duties to the Executive or any other Committee, or to its Chairman, Vice-Chairman, Secretary or any other of its officers;

(c) the travelling allowances of members and of members of Committees;

(d) the appointment, promotion and dismissal of its officers and other employees other than those appointed by the Central Government and the creation and abolition of their posts;

(e) the conditions of service of its officers and other employees other than those appointed by the Central Government, including their pay, leave, leave allowances, pensions, gratuities, compassionate allowances and travelling allowances and the establishment and maintenance of a provident fund for them;

(f) the maintenance of its accounts;

(g) the persons by whom, and the manner in which payments, deposits and investments may be made on its behalf;

(h) the custody of moneys required for its current expenditure and the investment of moneys not so required;

(i) the preparation of statements showing the sums allotted to Departments of the Central and State Governments and other institutions.

(2) No by-law shall take effect until it has been confirmed by the Central Government and published in the Official Gazette, and the Central Government, in confirming a by-law may make any change therein which appears to be necessary.

(3) The Central Government may, by notification in the Official Gazette, cancel any by-law which it has confirmed and thereupon the by-law shall cease to have effect.

**50. Repeals and savings.**—(1) The Indian Tea Control Act, 1938 (VIII of 1938) and the Central Tea Board Act, 1949 (XIII of 1949) are hereby repealed.

(2) All moneys and other property and all rights and interests, of whatever kind, owned by, vested in, used, enjoyed or possessed by, or held in trust by or for, the Indian Tea Licensing Committee constituted under the Indian Tea Control Act, 1938, and the Central Tea Board constituted under the Central Tea Board Act, 1949, as well as all liabilities legally subsisting against that Committee or that Board shall pass to the Board with effect from the commencement of this Act.

(3) All officers and other employees of the Indian Tea Licensing Committee and the Central Tea Board who hold office as such immediately before the commencement of this Act shall be deemed to have been appointed as officers or other employees of the Board with effect from the commencement of this Act and, notwithstanding anything contained in any contract of service entered into by any such officer or other employee with the Indian Tea Licensing Committee or the Central Tea Board, shall be entitled to such pay and allowances and to such conditions of service in respect of other matters as may be determined by the Board with the approval of the Central Government.

(4) Any proceedings taken by the Indian Tea Licensing Committee or the Central Tea Board before the commencement of this Act may be continued by the Board after such commencement.

(5) Until action in that behalf is otherwise taken under the corresponding provisions of this Act or the rules made thereunder, all licences, permits and permissions issued or granted, all export quotas allotted and all fees fixed under the provisions of the Indian Tea Control Act, 1938, shall, unless inconsistent with the provisions of this Act, be deemed to have

been issued, granted, allotted or fixed under the corresponding provisions of this Act and the rules made thereunder.

(6) Any offence punishable under the Indian Tea Control Act, 1938, or the Central Tea Board Act, 1949, shall be punishable and may be dealt with as if it were an offence punishable under the corresponding provisions of this Act.

(7) Any other thing or action done or taken before the commencement of this Act by the Indian Tea Licensing Committee or the Central Tea Board shall so long as it is not inconsistent with any of the provisions of this Act, be as valid and effectual as if it had been done or taken by the Board after the commencement of this Act.

(8) For the removal of doubts, it is hereby declared that the provisions contained in sub-sections (2) to (7) inclusive shall be without prejudice to the general application of section 6 of the General Clauses Act, 1897 (X of 1897).

(9) If any difficulty arises in giving effect to any of the provisions of this Act, the Central Government may as occasion may arise, by order, do anything which appears to be necessary for the purpose of removing the difficulty.

#### STATEMENT OF OBJECTS AND REASONS

The Indian Tea Control Act, 1938, and the Central Tea Board Act, 1949, are the existing enactments relating to the tea industry. The object of the former Act is "the control of the export of tea and control of the extension of the cultivation of tea", while that of the latter is "the development of the tea industry under Central control". Since these objects are inter-related, the former being in a sense only ancillary to the latter, it is proposed that there should be a single Act combining the provisions of the two existing enactments, with a view to achieving simplicity and administrative convenience. The Bill seeks to achieve this object.

2. The Bill provides for the constitution of a statutory Board called the Tea Board, to which will be entrusted, besides the functions now assigned to the Indian Tea Licensing Committee and the Central Tea Board under the existing Acts, additional functions such as the regulation and control of tea sold by auction or otherwise, the registration and licensing of brokers and blenders and quality control.

3. The manner in which various bodies are given representation on the Central Tea Board, under the existing Act, has created difficulties in its implementation, and it is, therefore, proposed to make the composition of the Board more flexible by providing that the Central Government shall appoint members to the Board from among persons capable in their opinion of representing the various interests concerned, such as growers, exporters, labour, Central and State Governments, principal Chambers of Commerce and Industry, an economist and a scientist.

4. It is also proposed to take power for the Central Government to fix the wholesale and retail prices at which tea may be sold and also to issue directions to the Tea Board so that it may function as an effective instrument of governmental policies.

NEW DELHI;  
The 4th December, 1952.

T. T. KRISHNAMACHARI.



The following Bills were introduced in the House of the People on 19th December, 1952:—

BILL No. 131 OF 1952

*A Bill to facilitate the collection of statistics of certain kinds relating to industries, trade and commerce.*

BE it enacted by Parliament as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Collection of Statistics Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(i) the Central Government, in relation to the collection of statistics under a direction issued by it under section 3, and

(ii) the State Government, in relation to the collection of statistics under a direction issued by it under that section;

(b) “commercial concern” means a public limited company or a co-operative society or a firm or any other person or body of persons engaged in trade or commerce, and includes—

(i) a concern engaged in banking or insurance;

(ii) a financial corporation;

(iii) a concern engaged in shipping and navigation;

(iv) a concern engaged in the business of brokers dealing in shares, stocks and securities and commodities;

(v) a concern engaged in the business of advertising consultants;

(vi) a light railway;

(vii) a concern engaged in road transport service;

(viii) a concern engaged in air transport service;

(ix) a rubber, tea, coffee or cinchona plantation;

(x) a concern engaged in the business of forwarding and clearing agents;

(xi) any other concern which, in the opinion of the Central Government, is a commercial concern and is declared to be such by that Government by notification in the Official Gazette, but does not include an industrial concern;

(c) “factory” means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948);

(d) “industrial concern” means a public limited company or a co-operative society or a firm or any other person or body of persons engaged in the manufacture, preservation or processing of goods or

in mining or in the generation or distribution of electricity or any other form of power;

(e) "owner" in relation to a commercial or an industrial concern, means the person who, or the authority which, has the ultimate control over the affairs of the concern, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the concern;

(f) "prescribed" means prescribed by rules made under this Act or in any form laid down by such rules.

**3. Collection of statistics.**—The appropriate Government may, by notification in the Official Gazette, direct that statistics shall be collected relating to any of the following matters, namely:—

(a) any matter relating to any industry or class of industries;

(b) any matter relating to any commercial or industrial concern or class of commercial or industrial concerns, and in particular, any matter relating to factories;

(c) any of the following matters so far as they relate to welfare of labour and conditions of labour, namely:—

(i) price of commodities;

(ii) attendance;

(iii) living conditions including housing, water supply and sanitation;

(iv) indebtedness;

(v) rents of dwelling houses;

(vi) wages and other earnings;

(vii) provident and other funds provided for labour;

(viii) benefits and amenities provided for labour;

(ix) hours of work;

(x) employment and unemployment;

(xi) industrial and labour disputes;

and thereupon the provisions of this Act shall apply in relation to those statistics:

Provided that—

(a) nothing contained in this section shall be deemed to authorise a State Government to issue any direction under this Act with respect to the collection of statistics relating to any matter falling under any of the entries specified in List I in the Seventh Schedule to the Constitution; or

(b) where the Central Government has issued any direction under this section for the collection of statistics relating to any matter, no State Government shall, except with the previous approval of the Central Government, issue any similar direction for so long as the collection of statistics by the Central Government remains to be completed; or

(c) where a State Government has issued a direction under this section for the collection of statistics relating to any matter, the Central Government shall not issue any similar direction for so long as the collection of statistics by the State Government remains to be completed, except in cases where statistics have to be collected with reference to two or more States.

**4. Appointment of statistics authority.**—The appropriate Government may appoint an officer to be the statistics authority for the purpose of collecting any statistics directed by it to be collected.

**5. Power of statistics authority to call for information or returns.**—

(1) The statistics authority may serve or cause to be served on the owner of an industrial or commercial concern or on any other person a notice requiring him to furnish such information or returns as may be prescribed relating to any matter in respect of which statistics are to be collected.

(2) The form in which, and the person to whom, or the authorities to which, such information or returns should be furnished, the particulars which they should contain and the intervals within which such information or returns should be furnished shall be such as may be prescribed.

(3) The notice referred to in sub-section (1) may be served by post.

**6. Right of access to records or documents.**—The statistics authority or any person authorised by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Act, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Act, and may enter at any reasonable time any premises where he believes such record or document to be and may ask any question necessary for obtaining any information required to be furnished under this Act.

**7. Restriction on the publication of information and returns.**—No information, no individual return and no part of an individual return with respect to any particular industrial or commercial concern, given for the purposes of this Act shall, without the previous consent in writing of the owner for the time being of the industrial or commercial concern in relation to which the information or return was given or made or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular concern.

(2) Except for the purposes of a prosecution under this Act or under the Indian Penal Code (Act XLV of 1860), no person who is not engaged in the collection of statistics under this Act shall be permitted to see any information or individual return referred to in sub-section (1).

**8. Penalties.**—If any person—

(a) required to furnish any information or return—

(i) wilfully refuses or without lawful excuse neglects to furnish such information or return as may be required under this Act; or

(ii) wilfully furnishes or causes to be furnished any information or return which he knows to be false; or

(iii) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act; or

(b) impedes the right of access to relevant records or documents or the right of entry conferred by section 6;

he shall for each such offence be punishable with fine which may extend to five hundred rupees and in the case of a continuing offence to a further fine which may extend to two hundred rupees for each day after the first during which the offence continues.

*Explanation.*—In respect of false information, return or answer the offence shall be deemed to continue within the meaning of this section until true information or a true return or answer has been given or made.

**9. Offences by companies.**—(1) If the person guilty of an offence under section 8 is a company, every person who at the time the offence was committed was in charge of, or was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

**10. Penalty for improper disclosure of information or returns.**—If any person engaged in connection with the collection of statistics under this Act wilfully discloses any information or the contents of any return given or made under this Act otherwise than in the execution of his duties under this Act or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code (Act XLV of 1860), he shall be punishable for such offence with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**11. Cognizance of offences.**—No prosecution for an offence under section 8 shall be instituted except by or with the sanction of the statistics authority and no prosecution for an offence under section 10 shall be instituted except by or with the consent of the appropriate Government.

**12. Power of Central Government to give directions.**—The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

**13. Protection of action taken in good faith.**—No suit or other legal proceeding shall lie against the appropriate Government, the statistics authority, or any other person acting under the authority of the appropriate Government or of the statistics authority in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or directions issued thereunder.

**14. Power to make rules.**—(1) The appropriate Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for the purpose of carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, rules may be made under this section for all or any of the following matters, namely:—

(a) the form and manner in which the information and returns may be furnished, the particulars which they should contain, the intervals within which and the authority to which such information and returns may be furnished;

(b) the manner in which the right of access to documents and the right of entry conferred by section 6 may be exercised; and

(c) any other matter which is to be or may be prescribed under this Act.

**15. Repeal.**—The Industrial Statistics Act, 1942 (XIX of 1942), is hereby repealed

#### STATEMENT OF OBJECTS AND REASONS

It has been felt that at present Government have very limited legal powers to collect statistics for the various subjects which are the concern of the Centre, particularly in the industrial and commercial field. It is also considered that the existing arrangements for getting trade statistics through the Customs authorities and statistical data in respect of specific commodities under the relevant Acts, are also not very comprehensive. Accordingly, Government have largely to depend on the voluntary co-operation of the interests concerned in regard to the collection of statistical data from industrial concerns and business houses.

2. Recently, in order to assess the extent to which foreign owned and controlled firms engaged Indians and foreign nationals, a notification calling upon all undertakings to furnish the statistics was issued in all important English daily newspapers all over India. The response to the notification has not however been very satisfactory. Though Government can exert pressure to make certain firms submit returns, it is expedient that Government should be armed with powers to compel all concerns (including Managing Agency firms) engaged in (a) trade and commerce with foreign countries, (b) inter-State trade and commerce, (c) trading firms or Corporations, incorporated, registered or otherwise permitted in India, including banking, insurance and other financial Corporations, and (d) stock exchanges, to furnish such information.

3. The Bill, while replacing the Industrial Statistics Act, 1942 (XIX of 1942), is designed to incorporate all its existing provisions and to provide in addition for the collection of information and statistics in respect of matters related to items 41, 42, 43 and 48 in List I in the Seventh Schedule to the Constitution.

T. T. KRISHNAMACHARI,

NEW DELHI;

The 12th December, 1952.

## BILL\* No. 182 OF 1952

*A Bill further to amend the Coffee Market Expansion Act, 1942.*

BE it enacted by Parliament as follows :—

**1. Short title and commencement.**—(1) This Act may be called the Coffee Market Expansion (Amendment) Act, 1952.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Amendment of long title and preamble, Act VII of 1942.**—In the Coffee Market Expansion Act, 1942 (hereinafter referred to as the principal Act),—

(a) in the long title, for the words and figures “to continue the provision made under Ordinance No. XIII of 1940 for assistance to the coffee industry by regulating the export and sale of coffee and by other means,” the words “to provide for the development under Central control of the coffee industry” shall be substituted; and

(b) in the preamble, for the words “to continue the provision made under the Coffee Market Expansion Ordinance, 1940, for assistance to the coffee industry by regulating the export and sale of coffee and by other means,” the words “to provide for the development under Central control of the coffee industry” shall be substituted.

**3. Amendment of section 1, Act VII of 1942.**—In sub-section (1) of section 1 of the principal Act, for the words “Coffee Market Expansion Act”, the words “Coffee Act” shall be substituted.

**4. Substitution of new section for section 2 in Act VII of 1942.**—For section 2 of the principal Act, the following section shall be substituted, namely :—

“2. *Declaration as to expediency of Union control.*—It is hereby declared that it is expedient in the public interest that the Union should take under its control the coffee industry.”

**5. Amendment of section 3, Act VII of 1942.**—In section 3 of the principal Act, in clause (a), the word “Indian” shall be omitted.

**6. Amendment of section 4, Act VII of 1942.**—In section 4 of the principal Act,—

(i) in sub-section (1), for the words “Indian Coffee Board”, the words “Coffee Board” shall be substituted ;

(ii) for sub-section (2), the following sub-sections shall be substituted, namely :—

“(2) The Board shall consist of—

(i) a Chairman to be appointed by the Central Government ;

(ii) one person to represent the Indian Council of Agricultural Research to be nominated by the Central Government ;

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\*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to the House of the People the consideration of the Bill.

(iii) two persons to represent the Central Government to be nominated by that Government;

Provided that when a person so nominated is an official it shall be lawful for him to depute in the prescribed circumstances another person to attend any meeting of the Board on his behalf;

(iv) one person to represent Coorg to be nominated by that Government ;

(v) one person to represent the Government of Mysore to be nominated by that Government ;

(vi) one person to represent the Government of Madras to be nominated by that Government ;

(vii) one person to represent the Government of Travancore-Cochin to be nominated by that Government ;

(viii) four persons to represent coffee trade interests to be nominated by the Central Government ;

(ix) four persons to represent the coffee growing industry in Mysore to be nominated by the Government of Mysore ;

(x) two persons to represent the coffee growing industry in Coorg to be nominated by the Government of Coorg ;

(xi) five persons to represent the coffee growing industry in Madras to be nominated by the Government of Madras ;

(xii) three persons to represent labour to be nominated by the Central Government ;

(xiii) three persons to represent the interests of the consumers to be nominated by the Central Government.

(2A) The Central Government shall appoint from among the members of the Board a Vice-Chairman who shall exercise such of the powers and perform such of the duties of the Chairman as may be prescribed or as may be delegated to him by the Chairman."

**7. Amendment of section 5, Act VII of 1942.**—In section 5 of the principal Act, the word "Indian" shall be omitted.

**8. Amendment of section 7, Act VII of 1942.**—In section 7 of the principal Act, sub-section (1) shall be omitted.

**9. Substitution of new section for section 8 in Act VII of 1942.**—For section 8 of the principal Act, the following section shall be substituted, namely :—

*"8. Secretary and Deputy Secretary of the Board.*—(1) The Central Government shall appoint an officer to be called the Secretary of the Board to exercise such powers and perform such duties under the direction of the Board as may be prescribed.

(2) The Central Government may also appoint an officer to be called the Deputy Secretary of the Board to exercise such powers and perform such duties of the Secretary of the Board as may be delegated to him by the Secretary with the previous sanction of the Central Government or as may be prescribed.

(3) The Secretary and the Deputy Secretary of the Board shall be paid such salaries and allowances by the Board as may be fixed by the Central Government."

**10. Omission of section 9, Act VII of 1942.**—Section 9 of the principal Act shall be omitted.

**11. Amendment of section 13, Act VII of 1942.**—In section 13 of the principal Act,—

(a) in sub-section (1), the words "for credit to the general fund of the Board" shall be omitted; and

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) The proceeds of the duties of customs and excise paid to the Board shall first be credited to the Consolidated Fund of India, and the Central Government may thereafter, from time to time, pay to the Board from and out of such proceeds such sums of money as it may think fit to be credited to the general fund of the Board."

**12. Amendment of section 14, Act VII of 1942.**—In section 14 of the principal Act, in sub-section (4), for the words "Chief Coffee Marketing Officer", the words "Secretary of the Board" shall be substituted.

**13. Amendment of section 16, Act VII of 1942.**—In sub-section (1) of section 16 of the principal Act, the words "after consultation with the Board" shall be omitted.

**14. Amendment of section 20, Act VII of 1942.**—To section 20 of the principal Act, the following further proviso shall be inserted at the end, namely:—

"Provided further that the Central Government may, by notification in the Official Gazette, declare what shall be the permissible quota of coffee for export during any year and where such a declaration has been made no coffee shall be exported from India in excess of the said quota."

**15. Amendment of section 25, Act VII of 1942.**—In section 25 of the principal Act, in sub-section (4), the words "with the concurrence of the Chief Coffee Marketing Officer", shall be omitted.

**16. Amendment of section 31, Act VII of 1942.**—In section 31 of the principal Act, in sub-section (2), the words "for promoting the sale and increasing the consumption in India and elsewhere of coffee produced in India, or" shall be omitted.

**17. Amendment of section 32, Act VII of 1942.**—In section 32 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

"(d) the promotion of the sale and increase in the consumption in India and elsewhere of coffee produced in India "

**18. Insertion of new section 39A in Act VII of 1942.**—After section 39



of the principal Act, the following section shall be inserted, namely:—

“39A. *Offences by companies*—(1) If the person committing any offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

**19. Amendment of section 48, Act VII of 1942.**—In section 48 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Without prejudice to the generality of the foregoing power, rules may be made providing for all or any of the following matters, namely:—

(i) the term of office of members of the Board, the circumstances in which and the authority by which members may be removed and the filling of casual vacancies in the Board;

(ii) the procedure to be followed at meetings of the Board and at committees thereof for the conduct of business and the number of members which shall form a quorum at a meeting;

(iii) the maintenance by the Board of records of business transacted by the Board and the submission of copies thereof to the Central Government;

(iv) the holding of a minimum number of meetings of the Board every year;

(v) the powers of the Board, its Chairman and committees thereof with respect to the incurring of expenditure;

(vi) the conditions subject to which the Board may incur expenditure outside India;

(vii) the preparation of budget estimates of receipts and expenditure of the Board and the authority by which the estimates are to be sanctioned;

(viii) the maintenance of the accounts of income and expenditure of the Board and the audit of such accounts;

(ix) the deposit of the funds of the Board in banks and the investment of such funds;

(x) the re-appropriation of the estimated savings from any budget head to any other budget head;

(xi) the conditions subject to which the Board may borrow funds;

(xii) the conditions subject to which and the manner in which contracts may be entered into by or on behalf of the Board;

(xiii) the delegation to the committee or Chairman or Vice-Chairman or members or officers of the Board of any of the powers and duties of the Board under this Act;

(xiv) the staff which may be employed by the Board and the pay and allowances and leave and other conditions of service of officers and other employees of the Board;

(xv) the travelling and other allowances of members of the Board and of committees thereof;

(xvi) the purposes for which funds of the Board may be expended;

(xvii) the maintenance of the registers and other records of the Board and its various committees;

(xviii) the manner in which the internal sale quota of coffee estates shall be determined;

(xix) the manner in which the Board shall exercise its powers of buying and selling coffee in the Indian Market;

(xx) the appointment by the Board of agents;

(xxi) the conditions to be fulfilled by a curing establishment before a licence to operate as such can be issued;

(xxii) the form of, and the particulars to be contained in, any returns or reports to be made to the Board under this Act;

(xxiii) the form of, manner of application for, fees payable for, procedure in granting and conditions governing, the licences and permits to be issued by the Board;

(xxiv) the collection of any information or statistics in respect of coffee or any product of coffee;

(xxv) any other matter (other than any matter specified in section 15) which is to be or may be prescribed under this Act.

**20. Validation of certain acts and indemnity in respect thereof.**—All acts of executive authority, proceedings and sentences which have been done, taken or passed with respect to, or on account of, coffee during the period commencing on the 28th day of January, 1950, and ending with the date of commencement of this Act, by the Government or by any officer of the Government or by any other authority in the belief or purported belief that the acts, proceedings or sentences were being done, taken or passed under the principal Act shall be as valid and operative as if they had been done, taken or passed in accordance with law, and no suit or other legal proceeding shall be maintained or continued against any authority whatsoever on the ground that any such acts, proceedings or sentences were not done, taken or passed in accordance with law.

## STATEMENT OF OBJECTS AND REASONS

The Coffee Market Expansion Act, 1942, was passed to meet the situation which confronted the coffee industry on the outbreak of World War II, when most of our European markets for coffee were lost. This resulted in a surplus of coffee in the country and a slump in prices. The situation today is entirely different. The internal consumption of coffee has increased considerably and it is of the utmost importance to step up our production in order to meet the increasing demand of the home market, keep prices at reasonable levels and to meet our export requirements. The problem now is therefore one of the development of the industry rather than of marketing.

2. The Indian Coffee Board also needs to be reconstituted to ensure better co-ordination between the Board and the Central and State Governments and a more equitable representation of all the interests concerned by changing the present method of according individual representation, by name, to various associations on the Board. The relationship between the Board and the Centre would also be strengthened if the Chairman and Vice-Chairman are appointed by the Central Government instead of being elected from among the members.

3. The proposed Bill has been designed to achieve these objects.

4. Opportunity has also been taken—

(a) to substitute a new section for section 2 of the principal Act in order to bring its language in conformity with the language of Entry 52 of List I in the Seventh Schedule to the Constitution; and

(b) to indemnify all authorities in respect of all action taken between the commencement of the Constitution and the commencement of this Act, as a doubt may be raised as to whether, in the absence of a declaration made by Parliament by law, the declaration contained in section 2 was effective during that period.

T. T. KRISHNAMACHARI.

NEW DELHI;

*The 13th December, 1952.*

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BILL\* No. 133 OF 1952

*A Bill further to amend the Central Silk Board Act, 1948.*

BE it enacted by Parliament as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Central Silk Board (Amendment) Act, 1952.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Amendment of long title and preamble, Act LXI of 1948.**—In the long title of, and the preamble to, the Central Silk Board Act, 1948 (hereinafter referred to as the principal Act), the word “raw” shall be omitted.

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\*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to the House of the People the consideration of the Bill.

**3. Substitution of new section for section 2 in Act LXI of 1948.**—For section 2 of the principal Act, the following section shall be substituted, namely:—

“2. *Declaration as to expediency of Union control.*—It is hereby declared that it is expedient in the public interest that the Union should take under its control the silk industry.”

**4. Amendment of section 4, Act LXI of 1948.**—In section 4 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Board shall consist of the following members, namely:—

(a) a Chairman to be appointed by the Central Government;

(b) not more than three officials to be nominated by the Central Government;

Provided that it shall be lawful for any such official to depute in the prescribed circumstances another official to attend any meeting of the Board on his behalf;

(c) six persons to be elected by Parliament, four from the House of the People and two from the Council of States;

(d) four persons to be nominated by the Government of Mysore, one of whom shall represent the filature raw silk industry and two shall represent the rest of the sericulture industry;

(e) two persons to be nominated by the Government of Madras;

(f) two persons to be nominated by the Government of West Bengal;

(g) one person to be nominated by each of the Governments of Assam, Bihar, Bombay, Madhya Bharat, Madhya Pradesh and Uttar Pradesh;

(h) one person to be nominated by the Government of Jammu and Kashmir;

(i) not more than three persons to be nominated by the Central Government to represent the producers of raw silk and areas other than the States specified in clauses (d) to (g) inclusive;

(j) eight persons to be nominated by the Central Government, of whom one shall represent the spun silk industry, one the silk throwing and twisting industry, one the silk weaving industry, one labour; and two of them shall be experts in sericulture.”

**5. Amendment of section 7, Act LXI of 1948.**—In section 7 of the principal Act, the words “in consultation with the Board” shall be omitted

**6. Amendment of section 8, Act LXI of 1948.**—In section 8 of the principal Act,—

(i) in sub-section (1), the word “raw” shall be omitted;

(ii) in sub-section (2), after clause (e), the following clause shall be inserted, namely:—

“(f) carrying out any other duties which may be vested in the Board under rules made under this Act;”;

(iii) in sub-section (3), in clause (c), the word “raw” shall be omitted.

**7. Amendment of section 10, Act LXI of 1948.**—In section 10 of the principal Act, after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) The proceeds of the duties of excise paid to the Board shall first be credited to the Consolidated Fund of India and the Central Government may, thereafter, from time to time, pay to the Board from and out of such proceeds such sums of money as it may think fit.”

**8. Amendment of section 13, Act LXI of 1948.**—For sub-section (2) of section 13 of the principal Act, the following sub-section shall be substituted, namely:—

“(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for all or any of the following matters, namely:—

(i) the term of office of members of the Board, the circumstances in which and the authority by which members may be removed and the filling of casual vacancies in the Board;

(ii) the procedure to be followed at meetings of the Board and at the standing committee for the conduct of business and the number of members which shall form a quorum at any meeting;

(iii) the maintenance by the Board of records of business transacted by the Board and the submission of copies thereof to the Central Government;

(iv) the holding of a minimum number of meetings every year;

(v) the power of the Board, its Chairman and standing committee with respect to the incurring of expenditure;

(vi) the conditions subject to which the Board may incur expenditure outside India;

(vii) the preparation of budget estimates of receipts and expenditure of the Board and the authority by which the estimates are to be sanctioned;

(viii) the maintenance of the accounts of income and expenditure of the Board and the audit of such accounts;

(ix) the deposit of the funds of the Board in bank and the investment of such funds;

(x) the re-appropriation of estimated savings from one budget head to any other budget head;

(xi) the conditions subject to which the Board may borrow funds;

(xii) the conditions subject to which and the manner in which contracts may be entered into by or on behalf of the Board;

(xiii) the delegation to the standing committee or the Chairman or the Vice-Chairman or members or officers of the Board of any of the powers and duties of the Board under this Act;

(xiv) the staff which may be employed by the Board and the pay and allowances, leave and other conditions of service of officers and other employees of the Board;

(xv) the travelling and other allowances of members of the Board and of the standing committee;

(xvi) the purposes for which funds of the Board may be expended;

(xvii) the maintenance of the registers and other records of the Board and of its standing committee;

(xviii) the collection of any information or statistics in respect of raw silk or any product of silk;

(xix) the manner in which raw silk shall be graded and marketed;

(xx) any other matter which is to be or may be prescribed."

**9. Amendment of section 14, Act LXI of 1948.**—Section 14 of the principal Act shall be numbered as sub-section (1) and after that sub-section as so numbered, the following sub-sections shall be inserted, namely:—

'(2) If the person committing any offence specified in sub-section (1) is a company, every person who, at the time the offence, was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under sub-section (1) has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm."

10. **Insertion of new section 15A in Act LXI of 1948.**—After section 15 of the principal Act, the following section shall be inserted, namely:—

"15A. *Jurisdiction of courts.*—No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under section 14."

11. **Omission of section 17, Act LXI of 1948.**—Section 17 of the principal Act shall be omitted.

12. **Validation of certain acts and indemnity in respect thereof.**—All acts of executive authority, proceedings and sentences which have been done, taken or passed, with respect to, or on account of, raw silk during the period commencing on the 26th day of January, 1950, and ending with the date of commencement of this Act, by the Government or by any officer of the Government or by any other authority in the belief or purported belief that the acts, proceedings or sentences were being done, taken or passed under the principal Act shall be as valid and operative as if they had been done, taken or passed in accordance with law, and no suit or other legal proceeding shall be maintained or continued against any authority whatsoever on the ground that any such acts, proceedings or sentences were not done, taken or passed in accordance with law.

#### STATEMENT OF OBJECTS AND REASONS

The Central Silk Board constituted under the Central Silk Board Act, 1948, requires to be re-constituted. The Minister for Commerce and Industry is at present the Chairman of the Board and this is an anomalous position for him. Further, some changes are also essential in regard to the representation of various interests including labour on the Board with a view to increasing its efficiency. It is also necessary to increase the powers of control vested in the Board by authorising rules to be made in that behalf by the Central Government. The amendments are designed to carry these into effect.

#### 2. Opportunity has also been taken—

(a) to extend the scope of the Act to cover the silk industry generally instead of raw silk as at present;

(b) to substitute a new section for section 2 of the principal Act in order to bring its language in conformity with the language of Entry 52 of List I in the Seventh Schedule to the Constitution; and

(c) to indemnify all authorities in respect of action taken between the commencement of the Constitution and the commencement of this Act, as a doubt may be raised as to whether, in the absence of a declaration made by Parliament by law, the declaration contained in section 2 was effective during that period.

NEW DELHI;

The 13th December, 1952.

T. T. KRISHNAMACHARI.

## BILL\* No. 134 of 1952

*A Bill further to amend the Rubber (Production and Marketing) Act, 1947.*

Be it enacted by Parliament as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Rubber (Production and Marketing) Amendment Act, 1952.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Amendment of long title and preamble, Act XXIV of 1947.**—In the long title of, and the preamble to, the Rubber (Production and Marketing) Act, 1947 (hereinafter referred to as the principal Act), the words “so far as regards the production and marketing of rubber, and for regulating export and import of rubber” shall be omitted.

**3. Amendment of section 1, Act XXIV of 1947.**—In sub-section (1) of section 1 of the principal Act, the brackets and words “(Production and Marketing)” shall be omitted.

**4. Substitution of new section for section 2 in Act XXIV of 1947.**—For section 2 of the principal Act, the following section shall be substituted, namely:—

“2. *Declaration as to expediency of Union control.*—It is hereby declared that it is expedient in the public interest that the Union should take under its control the rubber industry.”

**5. Amendment of section 3, Act XXIV of 1947.**—In section 3 of the principal Act, in clause (a), the word “Indian” shall be omitted.

**6. Amendment of section 4, Act XXIV of 1947.**—In section 4 of the principal Act,—

(a) in sub-sections (1) and (2), the word “Indian” shall be omitted;

(b) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:—

“(3) The Board shall consist of—

(a) a Chairman to be appointed by the Central Government;

(b) two members representing the Central Government to be nominated by that Government;

Provided that where a member so nominated is an official, it shall be lawful for him to depute in the prescribed circumstances another official to attend any meeting of the Board on his behalf;

(c) one member representing the Indian Council of Agricultural Research to be nominated by the Central Government;

(d) three members to be nominated by the Government of Madras, one of whom shall be a person representing rubber producing interests;

(e) seven members to be nominated by the Government of Travancore-Cochin, four of whom shall be persons

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\*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to the House of the People the introduction and consideration of the Bill.



representing the rubber producing interests, one of such four being a person representing the smaller interests;

(f) eight members to be nominated by the Central Government, of whom two shall represent the manufacturers and three labour; and

(g) the Rubber Production Commissioner, *ex-officio*.

(4) The Central Government shall appoint one of the members of the Board to be its Vice-Chairman."

**7. Amendment of section 6, Act XXIV of 1947.**—In section 6 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Central Government shall appoint a Rubber Production Commissioner to exercise such powers and perform such duties as may be prescribed.";

(b) in sub-section (2), the words "in consultation with the Board" shall be omitted.

**8. Amendment of section 7, Act XXIV of 1947.**—In section 7 of the principal Act,—

(a) sub-section (1) shall be omitted;

(b) in sub-section (2), the word "other" shall be omitted.

**9. Amendment of section 8, Act XXIV of 1947.**—In section 8 of the principal Act,—

(a) in sub-section (1), the words "so far as regards the production and marketing of rubber" shall be omitted;

(b) in sub-section (2), after clause (e), the following clause shall be inserted, namely:—

"(f) carrying out any other duties which may be vested in the Board under rules made under this Act."

**10. Amendment of section 11, Act XXIV of 1947.**—In section 11 of the principal Act, in sub-section (1), the words "after consulting the Board" shall be omitted.

**11. Amendment of section 12, Act XXIV of 1947.**—In section 12 of the principal Act,—

(a) in sub-section (1), for the words "at such rate as the Central Government may, on the recommendation of the Board," the words "at such rate not exceeding one anna per pound of rubber so produced as the Central Government may" shall be substituted; and

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) The proceeds of the duties of excise collected by the Board shall first be credited to the Consolidated Fund of India, and the Central Government may thereafter, from time to time, pay to the Board from and out of such proceeds such sums of money as it may think fit."

**12. Amendment of section 13, Act XXIV of 1947.**—In sub-section (1) of section 13 of the principal Act, the words, brackets and figures "after consulting the Rubber Price Advisory Committee constituted under sub-section (1) of section 7" shall be omitted.

**13. Amendment of section 25, Act XXIV of 1947.**—For sub-section (2) of section 25 of the principal Act, the following sub-section shall be substituted, namely:—

"(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for all or any of the following matters, namely:—

(i) the term of office of members of the Board, the circumstances in which and the authority by which members may be removed and the filling of casual vacancies in the Board;

(ii) the procedure to be followed at meetings of the Board and at committees thereof for the conduct of business, and the number of members which shall form a quorum at any meeting;

(iii) the maintenance by the Board of records of business transacted by the Board, and the submission of copies thereof to the Central Government;

(iv) the holding of a minimum number of meetings of the Board every year;

(v) the powers of the Board, its Chairman and committees thereof with respect to the incurring of expenditure and the powers and duties of the Rubber Production Commissioner and the Secretary of the Board;

(vi) the conditions subject to which the Board may incur expenditure outside India;

(vii) the preparation of budget estimates of receipts and expenditure of the Board and the authority by which the estimates are to be sanctioned;

(viii) the maintenance of the accounts of income and expenditure of the Board and the audit of such accounts;

(ix) the deposit of the funds of the Board in banks and the investment of such funds;

(x) the re-appropriation of the estimated savings from any budget head to any other budget head;

(xi) the conditions subject to which the Board may borrow funds;

(xii) the conditions subject to which and the manner in which contracts may be entered into by or on behalf of the Board;

(xiii) the delegation to committees or the Chairman or Vice-Chairman or members or officers of the Board of any of the powers and duties of the Board under this Act;

(xiv) the staff which may be employed by the Board and the pay and allowances and leave and other conditions of service of officers and other employees of the Board;

(xv) the travelling and other allowances of members of the Board and of committees thereof;

(xvi) the purposes for which the funds of the Board may be expended;

(xvii) the maintenance of the registers and other records of the Board and of its various committees;

(xviii) the collection of any information or statistics in respect of rubber or any product of rubber;

(xix) the form of application for registration under section 10 or the cancellation of such registration, the fee payable on such applications, the procedure to be followed in granting or cancelling registration and the registers to be kept by the Board;

(xx) the form of application for special licences under section 14 or section 17, the fees for the grant or renewal of such licences, and the forms of such licences;

(xxi) the manner in which rubber shall be graded and marketed;

(xxii) the fee payable on appeals under section 28;

(xxiii) any other matter which is to be or may be prescribed."

**14. Amendment of section 26, Act XXIV of 1947.**—Section 26, of the principal Act shall be numbered as sub-section (1) thereof, and after that sub-section as so numbered, the following sub-sections shall be inserted, namely:—

"(2) If the person committing any offence under sub-section (1) is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under sub-section (1) has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm."

15. **Insertion of new section 27A in Act XXIV of 1947.**—After section 27 of the principal Act, the following section shall be inserted, namely:—

“27A. *Jurisdiction of courts.*—No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.”

16. **Omission of section 29, Act XXIV of 1947.**—Section 29 of the principal Act shall be omitted.

17. **Validation of certain acts and indemnity in respect thereof.**—All acts of executive authority, proceedings and sentences which have been done, taken or passed with respect to, or on account of, rubber, during the period commencing on the 26th day of January, 1950, and ending with the date of commencement of this Act, by the Government or by any officer of the Government or by any other authority in the belief or purported belief that the acts, proceedings or sentences were being done, taken or passed under the principal Act shall be as valid and operative as if they had been done, taken or passed in accordance with law, and no suit or other legal proceeding shall be maintained or continued against any authority whatsoever on the ground that any such acts, proceedings or sentences were not done, taken or passed in accordance with law.

#### STATEMENT OF OBJECTS AND REASONS

The constitution of the Indian Rubber Board requires to be radically altered. In order to ensure proper co-ordination between the Board and the Central Government, it has become necessary to effect a change in the method of representation of the interests concerned by vesting more powers in the Government in regard to nomination of members of the Rubber Board. Experience of other similar commodity Boards has shown that there are difficulties in according individual representation, by name, to various associations on the Board. The relationship between the Board and the Central Government will be further strengthened if the Chairman and the Vice-Chairman are appointed by the Central Government instead of being elected from among the members.

2. The Rubber Price Advisory Committee, constituted under section 7 of the Act, has outlived its utility, as prices of raw rubber are now fixed on the recommendations of the Tariff Commission. It is therefore no longer necessary to have the Committee.

3. India is deficit in rubber and part of the country's requirements are met by imports. As rubber is an important strategic material, it is essential to attain self-sufficiency. With this end in view, the Central Government have under consideration a development scheme for the industry, implementation of which would require larger funds than are now at their disposal. The present cess on rubber is very small and it is proposed that the Central Government should have powers to levy a larger cess, subject to a maximum of one anna per pound of rubber.

4. The Bill gives effect to these proposals and incidentally opportunity has also been taken—

(a) to substitute a new section for section 2 of the principal Act in order to bring its language in conformity with the language of Entry 52 of List I in the Seventh Schedule to the Constitution; and

(b) to indemnify all authorities in respect of all action taken between the commencement of the Constitution and the commencement of this Act, as a doubt may be raised as to whether, in the absence of a declaration made by Parliament by law, the declaration contained in section 2 was effective during that period.

NEW DELHI;

The 18th December, 1952.

T. T. KRISHNAMACHARI.

The following Bill was introduced in the House of the People on 20th December, 1952:—

BILL\* No. 135 OF 1952

*A Bill to regulate certain conditions of service of the Judges of High Courts in Part A States.*

BE it enacted by Parliament as follows:—

## CHAPTER I

### PRELIMINARY

**1. Short title.**—This Act may be called the High Court Judges (Conditions of Service) Act, 1952.

**2. Definitions.**—(1) In this Act, unless the context otherwise requires,—

(a) “acting Chief Justice” means a Judge appointed under article 223 of the Constitution to perform the duties of the Chief Justice;

(b) “acting Judge” means a person who was appointed to act as a Judge under sub-section (2) of section 222 of the Government of India Act, 1935;

(c) “actual service” includes—

(i) time spent by a Judge on duty as a Judge or in the performance of such other functions as he may, at the request of the President of India, undertake to discharge;

(ii) vacations, excluding any time during which the Judge is absent on leave;

(iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another or from the Supreme Court to a High Court;

(iv) time spent by a Judge on duty as a Judge of a former Indian High Court;

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\*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to the House of the People the consideration of the Bill.

(v) time spent by a Judge to attend the sittings of the Supreme Court as an *ad hoc* Judge under article 127 of the Constitution; and

(vi) vacations (excluding any time during which the Judge was absent on leave) taken by a Judge as a Judge of a former Indian High Court;

(d) "additional Judge" means a person who was appointed as an additional Judge under sub-section (3) of section 222 of the Government of India Act, 1935;

(e) "former Indian High Court" means the High Court at Lahore, the Chief Court of Sind or the Judicial Commissioner's Court of North West Frontier Province;

(f) "High Court" means a High Court in any Part A State;

(g) "Judge" means a Judge of a High Court and includes the Chief Justice and acting Chief Justice of a High Court;

(h) "service for pension" includes—

(i) actual service;

(ii) one month or the amount actually taken, whichever is less, of each period of leave on full allowances;

(iii) joining time on return from leave out of India;

(i) "prescribed" means prescribed by rules made under this Act.

(2) In the calculation of service for the purposes of this Act, previous service for any period or periods as acting Judge or additional Judge or as a Judge of a former Indian High Court shall be reckoned as service as a Judge but, save as otherwise expressly provided, previous service as an acting Chief Justice shall not be reckoned as service as Chief Justice.

(3) Any period of leave taken by a Judge before the commencement of this Act under the rules then applicable to him as an acting Judge, additional Judge or a Judge shall, for the purposes of this Act, be treated as if it were leave taken by him under this Act.

(4) Any period of leave taken by a Judge while serving as a Judge of a former Indian High Court before his appointment to a High Court in a Part A State shall for the purposes of this Act be treated as if it were leave taken by him under this Act.

## CHAPTER II

### LEAVE

**3. Kinds of leave admissible to a Judge.**—(1) Subject to the provisions of this Act, leave granted to a Judge may be at his option either—

(a) leave on full allowances; or

(b) leave on half allowances; or

(c) leave partly on full allowances and partly on half allowances.

(2) For the purposes of this Chapter, any period of leave on full allowances shall be reckoned as double that period of leave on half allowances.

**4. Leave account showing the amount of leave due.**—(1) A leave account shall be kept for each Judge showing therein the amount of leave due to him in terms of leave on half allowances.

(2) In the leave account of a Judge—

(a) there shall be credited to him—

(i) one-fourth of the time spent by him on actual service; and

(ii) where the Judge, by reason of his having been detained for the performance of duties not connected with the High Court, cannot enjoy any vacation which he would otherwise have been entitled to enjoy had he not been so detained, as compensation for the vacation not enjoyed, a period equal to double the period by which the vacation enjoyed by him in any year falls short of one month; and

(b) there shall be debited to him all leave with allowances taken by him.

**5. Aggregate amount of leave which may be granted.**—The aggregate amount of leave which may be granted to a Judge during the whole period of his service as such shall not exceed in terms of leave on half allowances three years together with the aggregate of the periods, if any, credited to his leave account under sub-section (2)(a)(ii) of section 4 as compensation for vacation not enjoyed.

(2) The aggregate amount of leave on full allowances which may be granted to a Judge during the whole period of his service as such shall not exceed one-twenty-fourth of the period spent by him on actual service together with one-half of the aggregate periods, if any, credited to his leave account under sub-section (2)(a)(ii) of section 4 as compensation for vacation not enjoyed.

(3) The maximum period of leave which may be granted at one time shall be, in the case of leave on full allowances, five months and in the case of leave with allowances of any kind, sixteen months.

**6. Grant of leave not due.**—Subject to the maximum limit specified in sub-section (1) of section 5, leave on half allowances may be granted to a Judge in excess of the amount at his credit—

(i) on medical certificate; or

(ii) otherwise than on medical certificate, for not more than six months and not more than once during the whole period of his service as a Judge;

Provided that no such leave shall be granted if the Judge is not expected to return to duty at the end of such leave and earn the leave granted.

**7. Special disability leave.**—The rules for the time being in force with respect to the grant of special disability leave in relation to an officer of the Central Civil Services, Class I who has entered service on or after the 16th July, 1931 and who may be disabled by injury caused in, or in consequence of, the due performance of his official duties or in consequence of his official position, shall apply in relation to a Judge.

**8. Extraordinary leave.**—Extraordinary leave not exceeding six months in duration may be granted to a Judge not more than once during the whole period of his service as a Judge in excess of any leave permissible under the foregoing provisions of this Chapter, but no salary or allowances shall be payable during, or in respect of, such leave.

**9. Leave allowances.**—(1) The monthly rate of leave allowances payable to a Judge while on leave on full allowances shall be for the first month of such leave a rate equal to the monthly rate of his salary, and thereafter two thousand two hundred and twenty rupees.

(2) The monthly rate of leave allowances payable to a Judge while on leave on half allowances shall be one thousand one hundred and ten rupees.

**10. Allowances for joining time.**—There shall be payable to a Judge in respect of joining time on his return from leave out of India an allowance at the rate of one thousand one hundred and ten rupees a month in lieu of salary.

**11. Combining leave with vacation.**—A Judge may be permitted to combine vacation on full salary with leave, if,—

(a) where the vacation consists of one continuous period, the leave is taken either at the commencement or at the end of the vacation but not at both;

(b) where the vacation is divided into two separate periods, the leave is taken for the interval, or part of the interval, between the two periods of that vacation, or for the interval, or part of the interval, between the second period of that vacation and the commencement of the next ensuing vacation:

Provided that no such permission to combine vacation with leave shall be granted if it becomes necessary to appoint an acting Chief Justice during the period of vacation or if the Judge is not expected to return to duty at the end of such leave.

**12. Consequences of overstaying leave or vacation.**—If a Judge overstays his leave or any vacation, whether combined with leave or not, he shall receive no salary for the period of his absence in excess of leave granted to him or beyond the end of the vacation, as the case may be:

Provided that if such absence is due to circumstances beyond his control, the period thereof may be treated as leave and may be debited to his leave account.

**13. Authority competent to grant leave, etc.**—The authority competent to grant or refuse leave to a Judge or revoke or curtail leave granted to a Judge shall be the Governor of the State in which the principal seat of the High Court is situate, after consultation with the Chief Justice of that High Court.

### CHAPTER III

#### PENSIONS

**14. Pension payable to Judges.**—Subject to the provisions of this Act, every Judge shall, on his retirement, be paid a pension in accordance with the scale and provisions in Part I of the First Schedule;



Provided that no such pension shall be payable to a Judge unless—

(a) he has completed not less than twelve years of service for pension, or

(b) he has attained the age of sixty years, or

(c) his retirement is medically certified to be necessitated by ill-health.

*Explanation*—In this section 'Judge' means a Judge who is not a member of the Indian Civil Service or has not held any other pensionable civil post under the Union or a State and includes a Judge who being a member of the Indian Civil Service or having held any other pensionable civil post under the Union or a State has elected to receive the pension payable under Part I of the First Schedule

**15. Special provision for pension in respect of Judges who are members of service.**—Every Judge—

(a) who is a member of the Indian Civil Service shall, on his retirement, be paid a pension in accordance with the scale and provisions in Part II of the First Schedule;

(b) who is not a member of the Indian Civil Service but has held any other pensionable civil post under the Union or a State, shall, on his retirement, be paid a pension in accordance with the scale and provisions in Part III of the First Schedule.

Provided that every such Judge shall elect to receive the pension payable to him either under Part I of the First Schedule or, as the case may be, Part II or Part III of the First Schedule and the pension payable to him shall be calculated accordingly

**16. Power of President to add to the service for pension.**—The President of India may for special reasons direct that any period not exceeding three months shall be added to the service for pension of a Judge

Provided that the period so added shall be disregarded in calculating any additional pension under Part I or Part II or Part III of the First Schedule

**17. Extraordinary pensions.**—The rules for the time being in force with respect to the grant of extraordinary pensions and gratuities in relation to an officer of the Central Civil Services Class I who has entered service on or after the 1st April, 1937 and who may suffer injury or die as a result of violence, shall apply in relation to a Judge, subject, however, to the modification that references in those rules to tables of injury gratuities and pensions, and of family gratuities and pensions, shall be construed as references to the tables in the Second Schedule

**18. Conversion of sterling pension into rupees.**—Pensions expressed in sterling only shall, if paid in India, be converted into rupees at such rate of exchange as the Central Government may, from time to time, specify in this behalf.

Provided that nothing in this section shall affect any specific privilege in respect of the conversion of sterling pensions which was conferred by any rules previously in force in respect of persons who on the 1st February 1921, were members of the Indian Civil Service

**19. Commutation of pensions.**—The Civil Pensions (Commutation) Rules for the time being in force shall, with necessary modifications, apply to Judges.

**20. Provident Fund.**—Every Judge shall be entitled to subscribe to the General Provident Fund (Central Services):

*Provided that a Judge who is a member of the Indian Civil Service or has held any other pensionable civil post under the Union or a State shall continue to subscribe to the Provident Fund to which he was subscribing before his appointment as a Judge.*

*Provided further that a Judge who was appointed before the commencement of this Act may continue to subscribe to the Provident Fund to which he was subscribing immediately before such commencement.*

**21. Authority competent to grant pension.**—Save as may be otherwise expressly provided in the relevant rules relating to the grant of extraordinary pensions and gratuities, the authority competent to grant pension to a Judge under the provisions of this Act shall be the President of India.

#### CHAPTER IV

##### MISCELLANEOUS

**22. Travelling allowances to a Judge.**—Every Judge shall receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as may, from time to time, be prescribed.

**23. Facilities for medical treatment and other conditions of service.**—(1) Every Judge and the members of his family shall be entitled to such facilities for medical treatment and for accommodation in hospitals as may, from time to time, be prescribed.

(2) The conditions of service of a Judge for which no express provision has been made in this Act shall be such as may be determined by rules made under this Act.

(3) This section shall be deemed to have come into force on the 26th January, 1950 and any rule made under this section may be made so as to be retrospective to any date not earlier than the commencement of this section.

**24. Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) leave of absence of a Judge;
- (b) pension payable to a Judge;
- (c) travelling allowances to a Judge;
- (d) facilities for medical treatment and other conditions of service of a Judge;
- (e) any other matter which has to be, or may be, prescribed.

(3) All rules made under the provisions of this Act shall be laid, as soon as may be, before each House of Parliament.

**25. Savings.**—Nothing contained in this Act shall have effect so as to give to a Judge who is serving as such at the commencement of this Act less favourable terms in respect of his allowances or his rights in respect of leave of absence (including leave allowances) or pension than those to which he would be entitled if this Act had not been passed.

## FIRST SCHEDULE

(See sections 14 and 15)

### PENSIONS OF JUDGES

#### PART I

1. The provisions of this Part apply to a Judge who is not a member of the Indian Civil Service or has not held any other pensionable civil post under the Union or a State and also apply to a Judge who, being a member of the Indian Civil Service or having held any other pensionable civil post under the Union or a State, has elected to receive the pension payable under this Part.

2. Subject to the other provisions of this Part, the pension payable to a Judge to whom this Part applies and who has completed not less than seven years of service for pension shall be the basic pension specified in paragraph 3 increased by the additional pension, if any, to which he is entitled under paragraph 5.

3. The basic pension to which such a Judge shall be entitled shall be—

(a) for the first seven completed years of service for pension, Rs. 5,000 per annum; and

(b) for each subsequent completed year of service for pension, a further sum of Rs. 1,000 per annum:

Provided that the basic pension shall in no case exceed Rs. 10,000 per annum.

4. For the purpose of calculating additional pensions, service as a Judge shall be classified as follows:—

Grade I. Service as Chief Justice in any High Court.

Grade II. Service as any other Judge in any High Court.

5. For each completed year of service for pension in either of the grades mentioned in paragraph 4, the Judge who is eligible for a basic pension under this Part shall be entitled to the additional pension specified in relation to that grade in the second column of the table annexed hereto:

Provided that the aggregate amount of his basic and additional pension shall not exceed the amount specified in the third column of the said

table in relation to the higher grade in which he has rendered service for not less than one completed year.

TABLE

Service	Additional pension per annum	Maximum aggregate pen- sion per annum
	Rs.	R .
Grade I	740	20,000
Grade II	470	16,000

6. A Judge who has rendered service for pension in both the grades may claim that any period of service of less than a completed year rendered by him in the higher grade, or any portion of any such period, shall be treated for the purposes of paragraph 5 as service rendered by him in the lower grade.

7. For the purposes of this Part service as an acting Chief Justice of High Court or as an *ad hoc* Judge of the Supreme Court, shall be treated as though it were service rendered as Chief Justice of a High Court.

8. Notwithstanding anything contained in the foregoing provisions of this Part, the pension payable to a Judge who has completed twelve years of service for pension, including not less than six years of service as Chief Justice of one or more of the High Courts, shall be Rs. 20,000 per annum.

9. Where a Judge to whom this Part applies retires or has retired at any time after the 26th January, 1950 without being eligible for a pension under any other provision of this Part, then, notwithstanding anything contained in the foregoing provisions, a pension of Rs. 6,000 per annum shall be payable to such a Judge.

## PART II

The provisions of this Part apply to a Judge who is a member of the Indian Civil Service and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of the Indian Civil Service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that pension; and

(b) the additional pension, if any, to which he is entitled under paragraph 3.

3. If such a Judge has completed not less than seven years of service for pension in a High Court, he shall be entitled to an additional pension in accordance with the following scale —

	Per annum.
	£
For seven completed years of service for pension	... 100
For eight completed years of service for pension	... 120
For nine completed years of service for pension	... 140
For ten completed years of service for pension	... 160
For eleven completed years of service for pension	... 180
For twelve or more completed years of service for pension	... 200

## PART III

The provisions of this Part apply to a Judge who has held any civil pensionable post under the Union or a State (but is not a member of the Indian Civil Service) and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that pension; and

(b) a special additional pension of Rs. 500 per annum in respect of each completed year of service for pension but in no case exceeding Rs. 2,500 per annum.

## SECOND SCHEDULE

(See section 17)

## INJURY GRATUITIES AND PENSIONS

Officer	Gratuity	Annual Pension	
		Higher scale	Lower scale
	Rs.	Rs.	Rs.
1. Chief Justice	20,000	5,400	4,700
2. Any other Judge	13,500	4,700	4,000

## FAMILY GRATUITIES AND PENSIONS

## A. Widow

Officer	Gratuity	Annual Pension
		Rs.
1. Chief Justice	15,000	5,000
2. Any other Judge	13,500	4,000

## B. Children

Officer	Annual Pension	
	If motherless	If not motherless
	Rs.	Rs.
1. Chief Justice	550	320
2. Any other Judge	550	320

## STATEMENT OF OBJECTS AND REASONS

Under clause (2) of Article 221 of the Constitution, every Judge of a High Court is entitled to "such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament", provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

2. This Bill seeks to determine the rights in respect of leave of absence and pension and certain other subsidiary conditions of Judges of High Courts in Part A States.

8. No substantial change is proposed in the leave terms hitherto admissible to these High Court Judges, nor in their pensionary rights, except to the extent indicated below:—

(a) Under Part I of the Third Schedule to the Government of India (High Court Judges) Order, 1937, the service of a Judge for purposes of additional and maximum pension is classified into five different grades, under which non-Service Judges are entitled to draw additional pensions ranging from £20 to £75 and maximum pensions ranging from £1,000 to £1,800. These different rates of pension were in consequence of the different rates of salary prescribed in the order. Under the Constitution, however, one uniform rate of salary has been laid down for Chief Justices and another uniform rate of salary for other Judges of High Courts in Part A States. Accordingly, in paragraphs 4 and 5 of Part I of the First Schedule to this Bill, provision is made for one common scale of pensions for Chief Justices and another common scale for other Judges.

Separate provision has been made, on the same terms as provided in the Government of India (High Court Judges) Order, 1937, for the pensions of J.C.S. and other Service Judges.

(b) Hitherto, no pension has been admissible to a non-Service Judge of a High Court, unless, on attaining the age of 60 years, he completed not less than 7 years qualifying service for pension. Provision has been made in paragraph 9 of Part I of the First Schedule to this Bill for a minimum pension of Rs. 6,000 per annum even if the service put in by a Judge is less than seven years. This is considered necessary, mainly because of Article 220 of the Constitution barring practice after retirement, a provision which adversely affects the recruitment of desirable candidates who would not be able to put in the minimum seven years on attaining the age of 60 to qualify for pension.

(c) Special provision has also been made to govern certain other subsidiary conditions of service, such as medical attendance facilities which are enjoyed by all Government servants and which, up to the commencement of the Constitution, were admissible also to High Court Judges under paragraph 26 of the Government of India (High Court Judges) Order, 1937.

K. N. KATJU.

NEW DELHI;

The 18th December, 1952.

M. N. KAUL,  
Secretary.